

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANTOINE EVERTON BUTLER,
#46206-177,

Plaintiff,

v.

UNITED STATES OF AMERICA
AND CITY OF DALLAS,

Defendants.

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Civil Action No. **3:15-CV-2441-L**

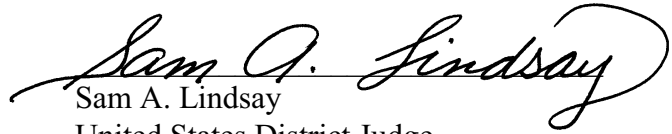
ORDER

This prisoner case was referred for screening to Magistrate Judge Renée Harris Toliver, who entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on November 18, 2015, recommending that the court dismiss this case as frivolous and failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). The magistrate further recommends that dismissal of this case count as a “strike” or “prior occasion” under 28 U.S.C. § 1915(g). Plaintiff filed objections to the Report.

After reviewing the pleadings, record in this case, Report, objections, and conducting a de novo review of those portions of the Report to which objection was made, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **overrules** Plaintiff’s objections, **denies** his request for return of property seized during his arrest, and **dismisses with prejudice** this action as frivolous and failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). Further, dismissal of this case **shall** count as a “strike” or “prior occasion” under 28 U.S.C. § 1915(g).

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. 24(a)(3). In support of this certification, the court **accepts and incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). The court **concludes** that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; F. R. App. 24(a)(5).

It is so ordered this 25th day of January, 2016.


Sam A. Lindsay
United States District Judge